

SHB 1209 - S COMM AMD

By Committee on Financial Institutions & Insurance

ADOPTED 03/02/2018

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 39.58.010 and 2016 c 152 s 1 are each amended to
4 read as follows:

5 In this chapter, unless the context otherwise requires:

6 (1) "Capitalization" means the measure or measures of
7 capitalization, other than net worth, of a depository applying for
8 designation as or operating as a public depository pursuant to this
9 chapter, based upon regulatory standards of financial institution
10 capitalization adopted by rule or resolution of the commission after
11 consultation with the director of the department of financial
12 institutions;

13 (2) "Collateral" means the particular assets pledged as security
14 to insure payment or performance of the obligations under this
15 chapter as enumerated in RCW 39.58.050;

16 (3) "Commission" means the Washington public deposit protection
17 commission created under RCW 39.58.030;

18 (4) "Commission report" means a formal accounting rendered by all
19 public depositories to the commission in response to a demand for
20 specific information made by the commission detailing pertinent
21 affairs of each public depository as of the close of business on a
22 specified date, which is the "commission report date." "Commission
23 report due date" is the last day for the timely filing of a
24 commission report;

25 (5) "Depository pledge agreement" means a tripartite agreement
26 executed by the commission with a financial institution and its
27 designated trustee. Such agreement shall be approved by the directors
28 or the loan committee of the financial institution and shall
29 continuously be a record of the financial institution. New securities
30 may be pledged under this agreement in substitution of or in addition
31 to securities originally pledged without executing a new agreement;

1 (6) "Director of the department of financial institutions" means
2 the Washington state director of the department of financial
3 institutions;

4 (7) "Eligible collateral" means the securities or letters of
5 credit enumerated in RCW 39.58.050 (5), (6), and (7);

6 (8) "Financial institution" means any national or state chartered
7 commercial bank or trust company, savings bank, ~~((e))~~ savings
8 association, or federal or state chartered credit union, or branch or
9 branches thereof, located in this state and lawfully engaged in
10 business;

11 (9) "Investment deposits" means time deposits, money market
12 deposit accounts, and savings deposits of public funds available for
13 investment. "Investment deposits" do not include time deposits
14 represented by a transferable or a negotiable certificate,
15 instrument, passbook, or statement, or by book entry or otherwise;

16 (10) "Liquidity" means the measure or measures of liquidity of a
17 depository applying for designation as or operating as a public
18 depository pursuant to this chapter, based upon regulatory standards
19 of financial institution liquidity adopted by rule or resolution of
20 the commission after consultation with the director of the department
21 of financial institutions;

22 (11) "Loss" means the issuance of an order by a regulatory or
23 supervisory authority or a court of competent jurisdiction (a)
24 restraining a public depository from making payments of deposit
25 liabilities or (b) appointing a receiver for a public depository;

26 (12) "Maximum liability," with reference to a public depository's
27 liability under this chapter for loss per occurrence by another
28 public depository, on any given date means:

29 (a) A sum equal to ten percent of:

30 (i) All uninsured public deposits held by a public depository
31 that has not incurred a loss by the then most recent commission
32 report date; or

33 (ii) The average of the balances of said uninsured public
34 deposits on the last four immediately preceding reports required
35 pursuant to RCW 39.58.100, whichever amount is greater; or

36 (b) Such other sum or measure as the commission may from time to
37 time set by resolution according to criteria established by rule,
38 consistent with the commission's broad administrative discretion to
39 achieve the objective of RCW 39.58.020.

1 As long as the uninsured public deposits of a public depository
2 are one hundred percent collateralized by eligible collateral as
3 provided for in RCW 39.58.050, the "maximum liability" of a public
4 depository that has not incurred a loss may not exceed the amount set
5 forth in (a) of this subsection.

6 This definition of "maximum liability" does not limit the
7 authority of the commission to adjust the collateral requirements of
8 public depositories pursuant to RCW 39.58.040;

9 (13) "Net worth" of a public depository means (a) the equity
10 capital as reported to its primary regulatory authority on the
11 quarterly report of condition or statement of condition, or other
12 required report required by its primary regulatory authority or
13 federal deposit insurer, and may include capital notes and debentures
14 which are subordinate to the interests of depositors, or (b) equity
15 capital adjusted by rule or resolution of the commission after
16 consultation with the director of the department of financial
17 institutions;

18 (14) "Public deposit" means public funds on deposit with a public
19 depository;

20 (15) "Public depository" means a financial institution that has
21 been approved by the commission to hold public deposits, and has
22 segregated, for the benefit of the commission, eligible collateral
23 having a value of not less than its maximum liability(~~(, and, unless~~
24 ~~otherwise provided for in this chapter, does not claim exemption from~~
25 ~~the payment of any sales or compensating use or ad valorem taxes~~
26 ~~under the laws of this state));~~

27 (16) "Public funds" means moneys under the control of a
28 treasurer, the state treasurer, or custodian belonging to, or held
29 for the benefit of, the state or any of its political subdivisions,
30 public corporations, municipal corporations, agencies, courts,
31 boards, commissions, or committees, including moneys held as trustee,
32 agent, or bailee belonging to, or held for the benefit of, the state
33 or any of its political subdivisions, public corporations, municipal
34 corporations, agencies, courts, boards, commissions, or committees;

35 (17) "Public funds available for investment" means such public
36 funds as are in excess of the anticipated cash needs throughout the
37 duration of the contemplated investment period;

38 (18) "State public depository" means a Washington state-chartered
39 financial institution that is authorized as a public depository under
40 this chapter;

1 (19) "State treasurer" means the treasurer of the state of
2 Washington;

3 (20) "Treasurer" means a county treasurer, a city treasurer, a
4 treasurer of any other municipal corporation, and any other custodian
5 of public funds, except the state treasurer;

6 (21) "Trustee" means a third-party safekeeping agent which has
7 completed a depository pledge agreement with a public depository and
8 the commission. Such third-party safekeeping agent may be a federal
9 home loan bank, or such other third-party safekeeping agent approved
10 by the commission.

11 **Sec. 2.** RCW 39.58.105 and 2016 c 152 s 3 are each amended to
12 read as follows:

13 (1) The commission may require the state auditor or the director
14 of the department of financial institutions, to the extent of their
15 respective authority under applicable federal and Washington state
16 law, to thoroughly investigate and report to it concerning the
17 condition of any financial institution which makes application to
18 become a public depository, and may also as often as it deems
19 necessary require the state auditor or the director of the department
20 of financial institutions, to the extent of their respective
21 authority under applicable federal and Washington state law, to make
22 such investigation and report concerning the condition of any
23 financial institution which has been designated as a public
24 depository. The expense of all such investigations or reports shall
25 be borne by the financial institution examined.

26 (2) In lieu of any such investigation or report, the commission
27 may rely upon information made available to it or the director of the
28 department of financial institutions by the office of the comptroller
29 of the currency, the national credit union administration, the
30 federal deposit insurance corporation, the federal reserve board, any
31 state financial institutions regulatory agency, or any successor
32 state or federal financial institutions regulatory agency, and any
33 such information or data received by the commission shall be kept and
34 maintained in the same manner and have the same protections as
35 examination reports received by the commission from the director of
36 the department of financial institutions pursuant to RCW
37 30A.04.075(2)(h) (~~and~~), 32.04.220(2)(h), and 31.12.565(2)(j).

38 (3) The director of the department of financial institutions
39 shall in addition advise the commission of any action he or she has

1 directed any state public depository to take which will result in a
2 reduction of greater than ten percent of the net worth of such
3 depository as shown on the most recent report it submitted pursuant
4 to RCW 39.58.100.

5 **Sec. 3.** RCW 39.58.240 and 2012 c 26 s 1 are each amended to read
6 as follows:

7 ~~((1) Solely for the purpose of receiving public deposits that
8 may total no more than the maximum deposit insured by the national
9 credit union share insurance fund, a credit union is a public
10 depository subject to RCW 39.58.040 and 39.58.100. The maximum
11 deposit applies to all funds attributable to any one depositor of
12 public funds in any one credit union. A credit union is not a public
13 depository for any other purpose under this chapter, including but
14 not limited to inclusion in the single public depository pool under
15 RCW 39.58.200.~~

16 ~~(2) For the purposes of this section, a credit union includes a
17 state chartered credit union chartered under chapter 31.12 RCW, or a
18 credit union chartered under federal law.)~~ A credit union may only
19 accept deposits greater than the maximum insured amount from a public
20 funds depositor that either is a county with a population of three
21 hundred thousand persons or less or is a public funds depositor
22 located within a county with a population of three hundred thousand
23 persons or less."

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24 On page 1, line 1 of the title, after "services;" strike the
25 remainder of the title and insert "and amending RCW 39.58.010,
26 39.58.105, and 39.58.240."

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